

STAFFORD COUNTY BOARD OF ZONING APPEALS MINUTES

May 24, 2011

The regular meeting of the Stafford County Board of Zoning Appeals (BZA) on Tuesday, May 24, 2011, was called to order with the determination of a quorum at 7:00 p.m. by Chairman Robert C. Gibbons in the Board of Supervisors Chambers. Mr. Gibbons introduced the Board members and staff and explained to the public present, the purpose, function and process of the Board of Zoning Appeals. He asked the members of the public who planned to speak at this meeting to please stand and raise their right hand, swearing or affirming to tell the truth.

Mr. Gibbons stated the Bylaws of this Board state the applicant would be allowed up to ten minutes to state their case, the other speakers would be allowed three minutes to testify, and the applicant would be allowed three minutes for rebuttal.

Members Present: Robert Gibbons, Ernest Ackermann, Dean Larson, Larry Ingalls, Ray Davis, Marty Hudson, Steven Apicella and Heather Stefl

Members Absent:

Staff Present: Melody Musante, Zoning Manager
Aisha Medina, Recording Secretary

Mr. Gibbons: We will continue with the hearing.

Mr. Ingalls: I have already abstained from this one.

Mr. Gibbons: Yes, so you can sit there if you want and Heather can... You would rather sit in the audience?

Mr. Ingalls: I am going to go sit in the audience.

PUBLIC HEARINGS

- 1. V11-2/1100102 - GINA M. SMITH** - Requests Variances from Stafford County Code, Section 28-35, Table 3.1, "District Uses & Standards", A-1 Agricultural and Section 28-273, "Nonconforming Structures", further reducing the front yard requirement to allow a three (3) acre subdivision with an existing nonconforming single family dwelling. The property is zoned A-1, Agricultural, located on Assessor's Parcel 40-31, at 2344 Courthouse Road.

Mr. Gibbons: Okay. Alright, Heather you will sit in on this case representing Mr. Ingalls. So we left it after hearing from both parties the other evening and then this past month, did you copy what the email said that we had?

Mrs. Musante: I did Mr. Gibbons, you have a copy of the home inspection report, you have a copy from one of the property owners and you also have a letter from the purchaser.

Mr. Gibbons: Okay and we have the email that you sent out that showed the subdivision of that property?

***Stafford County Board of Zoning Appeals
May 24, 2011***

Mrs. Musante: No, I sent that directly to you.

Mr. Gibbons: Yeah but I gave it to every Board member. Do you have a copy of that with you?

Mrs. Musante: I did not bring a copy of that with me.

Mr. Gibbons: Alright. In that report it showed what had been subdivided. So, everybody in this case has been sworn in so...

Mrs. Smith: No, she has not.

Mr. Gibbons: Okay, but she wasn't in the original public hearing. Would the Board have any problem with another witness appearing? No. Okay so let me do the oath for you before you... It is the custom of the Board to require that any person who wishes to speak before this Board on an application before it should be administered an oath. Therefore, I ask anyone who wishes to speak tonight to stand and raise your right hand and that will be you ma'am. By standing and raising your right hand, you hereby swear or affirm that all testimony before this Board shall be nothing but the truth.

Teresa Ramsey: Yes

Mr. Gibbons: Thank you ma'am. Alright, you are the only individual that hasn't spoken before the Board so if you would like to come forward ma'am and state your name and your address, we would appreciate it.

Ms. Ramsey: My name is Teresa Ramsey and I live in Stafford. I had submitted a letter to the Board of Zoning prior to last month's meeting. It is my understanding that the letter wasn't read publicly so I would like to do that at this time. My husband and I are property owners and the property we own sits directly across from 2344 Courthouse Road, the property on which the appeal is being requested. We have lived at this location for over ten (10) years and have enjoyed a peaceful neighborhood and friendship with many of the neighbors. Through your notification and speaking with the current property owner we have learned that due to the non-conforming structures clause concerning the amount of front yard footage, this clause has made the current property owner go through an appeals process before the property can be sold with a three (3) acre tract of land. Also having spoken to the original owner several years ago, Ms. Bessy Jones, we were told that VDOT with the approval of this Board, Stafford County Board of Zoning had taken a large part of the original front yard. Obviously when built, the house that is now in question was in conformity with the County's regulations and would still be had VDOT not widened the road at that particular location. As it stands today, the house may have a limited front yard but there is more than adequate parking off to the west side of the house, which is off road parking and there is ample room on the east and south side for renovation, recreation, garden or anything else that the perhaps the new family may need. The house located at 2344 Courthouse Road has been a mainstay and there are many people that live in this immediate neighborhood who have childhood memories of this house and the gracious family that once lived there. The area just would not look the same if this house were torn down or allowed to fall down due to no family living there. Therefore, I represent my husband as well, you do have this signed letter, you should have a copy of that before you that was submitted prior. We do request that the Board of Zoning grant the appeal to Ms. Smith as applied for because we would like for our neighborhood to continue to be a neighborhood. That means that families live together, watch out for one another and care for one another. Thank you.

Mr. Gibbons: Ma'am, just so you understand, when you send correspondence it becomes part of the record.

***Stafford County Board of Zoning Appeals
May 24, 2011***

Ms. Ramsey: Okay.

Mr. Gibbons: So although we don't read it into the record in the BZA, it all becomes part of the package so if anything goes further on, like an appeal, everything that we receive goes with the package.

Ms. Ramsey: Okay, thank you sir.

Mr. Gibbons: Thank you ma'am. Is there any questions that anybody would like to ask? I thought you had a question?

Mr. Davis: I would like to ask Ms. Jones a question.

Mr. Gibbons: Ms. Jones?

Mr. Davis: You spoke against this variance, can you tell us exactly why?

Ms. Jones: Well, I don't really care what they do. My husband wanted me to have the land and I told him I didn't want it, so if they can get the variance, let them have it because I really don't care.

Mr. Davis: Okay, thank you.

Ms. Jones: It was my mother in-law and father in-law that owned the place and I helped my husband take care of it when he was living. So I really don't care, if Gina wants to sell it, let her sell it.

Mr. Davis: Thank you.

Mr. Apicella arrived at 7:07 P.M.

Mr. Gibbons: Mr. Apicella just arrived. Mr. Apicella was a witness on the delay with VRE tonight. Thank you. Any other question of any speaker or of the staff? Dr. Larson?

Dr. Larson: I just was to clarify some things I guess in my own mind. So we have an eighty-eight (88) acre parcel?

Mrs. Musante: Right.

Dr. Larson: With a house on it, they are requesting a variance because they are going to subdivide the land and the nature of the subdivision plus some addition will cause an additional...

Mrs. Musante: They are required to dedicate right of way and because they are required to dedicate right of way, it is making the home more non-conforming. So with it making it more non-conforming once they do the subdivision they are required to have this variance to make the house basically conforming.

Dr. Larson: So the act of subdividing requires the right-of-way?

Mrs. Musante: Correct.

Dr. Larson: To be dedicated?

Mrs. Musante: Correct.

***Stafford County Board of Zoning Appeals
May 24, 2011***

Mr. Gibbons: Is that all?

Dr. Larson: That is all I have for now.

Mr. Gibbons: Marty, do you have anything?

Mr. Hudson: No.

Mr. Gibbons: Dr. Ackermann?

Mr. Ackermann: I guess I am following up on your question. So if the remaining land, I guess the eighty-three (83) acres or whatever or eighty-five (85) acres is left, so there is a right-of-way that is dedicated on that property as well?

Mrs. Musante: No, it is the right-of-way on Courthouse Road.

Mr. Ackermann: On Courthouse Road?

Mrs. Musante: Correct.

Mr. Ackermann: But the property that front's on Courthouse Road, is there only this three (3) acre parcel that fronts on Courthouse?

Mrs. Musante: It will be no but that is the only portion that is affected because that is what they are coming in with the subdivision plat. If they came in later to do a family subdivision, the portion that fronts on Courthouse Road, they will then be required to dedicate right-of-way that affects the remaining acreage.

Mr. Ackermann: I see, thank you.

Mr. Gibbons: Ray?

Mr. Davis: No.

Mr. Gibbons: Steven?

Mr. Apicella: I am going to ask the same question as Dr. Larson but in a different way. Would they not be able to subdivide the parcel in the absence of a variance?

Mrs. Musante: Correct.

Mr. Apicella: Okay. That is my only question. Thank you.

Mr. Gibbons: Heather, do you have any questions?

Mrs. Stefl: No.

Mr. Gibbons: Okay, what is the wish of the Board?

MOTION:

Mr. Apicella: Mr. Chairman, I move for approval of the requested variance.

***Stafford County Board of Zoning Appeals
May 24, 2011***

Mr. Davis: I second.

Mr. Gibbons: Mr. Davis seconds, any discussion?

Dr. Larson: Mr. Chairman, I am not going to support the motion. It strikes me that this is a difficult case but the variance isn't due to the nature of the topography of the property by any stretch, it is just the placement of the house. Although I am sure that the applicant doesn't want to, they could tear the house down and subdivide. Actually, they have a choice to leave the house and not subdivide or tear it down and subdivide. So it is not like the county would be forcing them to do anything. What they are trying to do is maximize profit, which I can't blame them for but I don't think that is why we grant variances. So I don't think it meets the hardship clause.

Mr. Gibbons: Okay. All in favor of the motion say aye.

Mr. Apicella: Aye.

Mr. Davis: Aye

Mr. Hudson: Aye.

Mrs. Stefl: Aye

Mr. Gibbons: Aye. All opposed?

Mr. Ackermann: No.

Dr. Larson: No.

Mr. Gibbons: Okay, we have 5-2 if I count right. Okay, the variance has been granted and good luck to you and thank you all for coming tonight.

VOTE:

The motion to approve the Variance passed 5-2.

Mr. Ackermann – No

Mr. Apicella – Yes

Mr. Davis – Yes

Mr. Gibbons – Yes

Mr. Hudson – Yes

Mr. Ingalls – Abstained

Dr. Larson – No

Mrs. Stefl – Yes

UNFINISHED BUSINESS

Mr. Gibbons: Now we will go into unfinished business and we have none. I thought we had one unfinished business? We were going to discuss a luncheon or some get together for Rachel.

Mrs. Musante: Right, her last day with the County is July 1st, so I know we had discuss previously

***Stafford County Board of Zoning Appeals
May 24, 2011***

possibly doing a dinner for her. I just wanted to get you all's thoughts on that.

Mr. Gibbons: Or a luncheon...

Mrs. Musante: We could do a luncheon.

Mr. Gibbons: So what is the...

Mr. Ackermann: What date were we talking again?

Mrs. Musante: She leaves July 1st, which is a Friday.

Dr. Larson: So you haven't set a date?

Mrs. Musante: We have not set a date. We are going to have a BZA meeting on June the 28th, I don't know if it is something that maybe you want to... It is up to you all, I can schedule whatever you want to do.

Mr. Gibbons: So the suggestion is maybe we gather at a local restaurant before the meeting and have a luncheon and then come to the meeting. Would that be acceptable?

Mrs. Musante: She is going to have to come to that meeting because she has a case that is coming to you all. So if we want to incorporate the two that day and you think you can make it to a restaurant by five. That would give us...

Mr. Gibbons: What is the feeling of the Board? Doctor?

Dr. Larson: I could make it by five.

Mr. Gibbons: What do you think Marty?

Mr. Hudson: I could make it by five, absolutely.

Mr. Gibbons: Dr. Ackermann?

Mr. Ackermann: I think so.

Mr. Gibbons: Okay. Larry, Ray, Steven?

Mr. Apicella: I may be a little late but that's fine.

Mr. Gibbons: Heather?

Mrs. Stefl: That's fine.

Mr. Gibbons: Okay, so why don't we do that.

Mrs. Musante: Okay, do you have a preference on the restaurant.

Mr. Gibbons: No, we will work it out and give an email.

Mrs. Musante: Sounds great.

Mr. Gibbons: Okay.

***Stafford County Board of Zoning Appeals
May 24, 2011***

Mrs. Musante: Okay.

Mr. Gibbons: So that is the unfinished business.

Dr. Larson: When is the June meeting?

Mrs. Musante: The 28th.

ADOPTION OF MINUTES

2. April 26, 2011

Mr. Gibbons: Adoption of the minutes of April 26, 2011. Are there any corrections or deletions?

Mr. Hudson: I will abstain.

Mr. Gibbons: Do we have a motion for approval?

MOTION:

Mr. Davis: So moved.

Mr. Gibbons: Mr. Davis moves.

Mr. Ackermann: Second

Mr. Gibbons: Seconded by Dr. Ackermann. All in favor say aye.

Mr. Apicella: Aye.

Mr. Ingalls: Aye.

Mr. Ackermann: Aye.

Mr. Davis: Aye

Dr. Larson: Aye.

Mr. Gibbons: Aye. All opposed? Any abstentions? We have one abstention.

Mr. Hudson: I abstain.

VOTE:

The motion to approve the minutes of April 26, 2011 as presented passed 6-0-1.

Mr. Ackermann – Yes

Mr. Apicella – Yes

Mr. Davis – Yes

Mr. Gibbons – Yes

***Stafford County Board of Zoning Appeals
May 24, 2011***

Mr. Hudson – Abstain
Mr. Ingalls – Yes
Dr. Larson – Yes

Mr. Gibbons: Okay.

Mr. Davis: You did say April 26th, right?

Mr. Gibbons: Yes, April 26th. I started with item 3 and I forgot about it. I got so wrapped up in that Camaro today I forgot about it. The Zoning Administrator's Report?

ZONING ADMINISTRATOR REPORT

Mrs. Musante: We don't have a report today.

Mr. Gibbons: Okay. I understand we have one case for next month?

Mrs. Musante: We actually have two (2), I took in another application today. It is a variance case for the Quarles on 17 regarding a canopy. They need a variance to add a canopy on their pumps.

Mr. Gibbons: What station would that be?

Mrs. Musante: It is the... where the Quarles Mobile Home Park is across from Arby's, up in that area.

Mr. Gibbons: They have a canopy there now?

Mrs. Musante: I don't know if they do or not, I have not been involved in all of the conversations concerning this case so I don't know the history behind it.

Mr. Gibbons: Okay, so we have Quarles and then the second one would be the County?

Mrs. Musante: The County, correct.

Mr. Gibbons: And that is on the...

Mrs. Musante: That is the Rocky Pen Reservoir and they need a special exception.

Mr. Gibbons: Of an additional foot I believe. Isn't it the one foot?

Mrs. Musante: It is not a variance; apparently it is something to do with the flood... From what Rishi Baral was telling me today, it is something to do with the floodway.

Mr. Gibbons: Okay, can you see if you... Now I want to thank you Aisha, you got this stuff out early this month.

Mrs. Musante: Next month probably won't be as early so if we can get it out the Tuesday before we will be pushing it.

Mr. Hudson: Well, you shouldn't start a habit that you can't keep up.

***Stafford County Board of Zoning Appeals
May 24, 2011***

Mrs. Musante: It is going to be a little difficult.

Mr. Gibbons: But it was good this month and we had plenty of time to read it and if we had questions... Okay, so we have two (2) cases next month?

Mrs. Musante: We do and the County case is going to take a lot of preparation. I actually talked with Bryan Counsel today and the information that they submitted is not correct so I have sent him back to do some research and I am not sure when I am going to get that back so.

Mr. Gibbons: Well, let me ask you something. You know, I don't ever want to delay anything, why wasn't correct when he filed it?

Mrs. Musante: He thought it was and when I started looking... the application had three (3) pages of adjacent parcels. The first one I looked up was not a county property owner, it was not owned by the County. I called him and I said are all of these properties owned by the County, "oh, absolutely". I said, well I have checked the first five (5) on this sheet and they are not owned by the County; if they are not owned we have to have separate owners consent forms for each one of these. "I will get back to you", that is how we left it.

Mr. Gibbons: Yeah but I... Okay.

Mrs. Musante: We can accept the application and we have done this for other applicants, given them a few days to get additional information in if it is not complete. He did not know that it was not correct.

Mr. Gibbons: But I don't want it going out to the Board members... I mean, I am not speaking for... but I don't want it going out to the Board members if it is not correct.

Mrs. Musante: Oh it won't.

Mr. Gibbons: So if it isn't then, you know, if you want we will send an email out and we will postpone it.

Mrs. Musante: I told him if he could get back to me by the end of the week that would be great and he has assured me that he would get back to me by tomorrow.

Mr. Gibbons: Okay.

Mrs. Musante: So...

Mr. Gibbons: Is there any other items that Board wants to discuss? Go ahead.

OTHER BUSINESS

3. Draft Variance Applications

Mrs. Stefl: Did we say we had to go over the Variance application or is my... I might be wrong.

Mr. Gibbons: Other business, draft variance applications.

***Stafford County Board of Zoning Appeals
May 24, 2011***

Mrs. Musante: The new applications, at the last meeting we had asked that everyone take a look at them and get back with me with comments. I have not received a comment from anyone.

Mr. Ingalls: I had some comments but I just made them on my list, I didn't send them to you.

Mrs. Musante: That's fine.

Mr. Gibbons: You can go ahead with them now.

Mrs. Musante: Would you like to share them?

Mr. Ingalls: Yes, I will share what I have. What we have started with is definitely an improvement and I was just looking at some of the others you sent us, just bits and pieces of those jumped out at me as something maybe I would consider. Just a technical thing, I noticed both applications... the other applications, the City and the whatever, the other ones were all were numbered, pages were numbered.

Mrs. Musante: Okay.

Mr. Ingalls: And you can tell that I have all the pages.

Mrs. Musante: Okay.

Mr. Ingalls: And that is just a little thing.

Mrs. Musante: Okay.

Mr. Ingalls: I like... the Fredericksburg application; they had this whole cover sheet that was a lot of words. It kind of said, What is a variance? Who can grant a variance? What is the Board of Zoning Appeals? What is the basis? How do I prove a hardship? You know, they went on for a page and a half to kind of explain to the applicant what is going on. I thought some of that information... some of it was pertinent.

Mrs. Musante: We have done that on page four (4) that is not numbered in our application that talks about variances. It is not in the same format as the City's but...

Mr. Ackermann: The one after...

Mrs. Musante: It starts off Section 28-350, "Granting of Variances".

Mr. Ingalls: I don't have that one. I saw that in there but then maybe, I guess, I didn't think it belonged in there because it wasn't numbered. I looked at it and said that don't belong in here; I will have to look and see if I can...

Mrs. Musante: Okay.

Mr. Ingalls: I will have to see if I can look at that but, I mean, I like the way there format is and I believe another one of them had very similar.

Mr. Ackermann: Yes, that was the Alexandria one.

***Stafford County Board of Zoning Appeals
May 24, 2011***

Mr. Ingalls: Somebody else had it, was it Alexandria?

Mr. Gibbons: Alexandria, yes.

Mr. Ingalls: Had a very similar thing so I kind of like that.

Mrs. Musante: Okay.

Mr. Ingalls: Just as a question and I really should know that answer to this, do you require... Does the County notify adjacent property owners?

Mrs. Musante: We are required to.

Mr. Ingalls: You do it? Evidently some of these applications require the applicant too.

Mrs. Musante: We used to and it became a problem with verifying that they had notified all of the correct property owners so then we just include that as a part of our application fee.

Mr. Ingalls: Right. I think if you do it... the only problem with the County doing it, we all know if you make a mistake that's going to be a problem.

Mrs. Musante: Right.

Mr. Ingalls: If they make a mistake, it is not as big of a problem, it is a problem for them not for you all, but that is okay. Do you give us, in our report, the list of all of the adjacent property owners that you have notified?

Mrs. Musante: No, but we can start doing that if you want it as a part of your package.

Mr. Gibbons: Yes, good.

Mrs. Musante: This is the original folder.

Mr. Ingalls: Right.

Mrs. Musante: And we keep a copy in every one of these folders who we've notified.

Mr. Ingalls: Right. Like I said, the other applications had that in it because the applicant was required to tell the County or the City or whatever, who they notified. I don't remember us seeing that.

Mrs. Musante: Okay.

Mr. Ingalls: I forget who I am looking at now... there was a statement on the City's applications right before the applicant signed it. It said, "the undersign declares that the above statements and those contained in any exhibits transmitted to the Board of Zoning Appeals are true".

Mrs. Musante: Okay.

***Stafford County Board of Zoning Appeals
May 24, 2011***

Mr. Ingalls: I don't know what weight that carries but it is in bold and, kind of, I mean it should be true and I know that is why we are asking people to be sworn in that we expect them to tell the truth and I would expect the information.

Mrs. Musante: Okay.

Mr. Ingalls: Alexandria... I didn't see in our application where they said the applicant or their representative must attend the meeting, is that part of the application? Somewhere written in that application?

Mrs. Musante: It is stated on the letter that goes out with a copy of the agenda to the applicant.

Mr. Ingalls: Okay, but it is not on the application?

Mrs. Musante: It is not on the application to my knowledge.

Mr. Ingalls: Okay.

Mr. Gibbons: That is a good take.

Mr. Ingalls: It is just something... I mean if he sees the application and says, "oh okay, I have to be there". Once he gets his letter... that's a... I don't know when he gets his letter. Does he get his letter about the same time that we get our packets?

Mrs. Musante: He does.

Mr. Ingalls: Well maybe he has the same problem as some of us do with setting up his schedule. I guess if he knew when he signed the application that he must be present that he better set his schedule up for that.

Mrs. Musante: Okay.

Mr. Ackermann: Oh, it does say on the form that you or a representative should be present.

Mrs. Musante: Where do you see that Mr. Ackermann?

Mr. Ackermann: Right under the word where it says applicant's signature; where the applicant signs.

Mrs. Musante: Oh it does, thank you.

Mr. Ingalls: What number page is that?

Mr. Ackermann: Two (2).

Mrs. Musante: The unnumbered page.

Mr. Ackermann: It is there.

Mr. Ingalls: I think I threw two away that didn't look like it was part of an application.

***Stafford County Board of Zoning Appeals
May 24, 2011***

Mrs. Musante: You threw that away too?

Mrs. Stefl: It is called a pre-application conference checklist.

Mr. Ingalls: Okay.

Mr. Ackermann: We got it there. That is your unnumbered page one then.

Mr. Ingalls: You might bold that or something just to let the applicant... make sure he reads it.

Mr. Gibbons: The applicant or the reviewer?

Mr. Ingalls: I guess somebody, the County had marked blue on the City's application, was that something that you all wanted to... because I didn't... On page three (3) of the City's application that is marked in blue, was that for a reason? Did you want me to...

Mr. Ackermann: That is page three (3) of Alexandria's.

Mr. Ingalls: Excuse me, Alexandria.

Mr. Hudson: Is that blue or green? (Inaudible)

Mrs. Musante: It's not. That is pretty much the same information that is on our page four (4) that you disposed of.

Mr. Ingalls: Yeah, I just saw that blue and I thought you were trying to draw my attention to that couple of paragraphs there that want me... I felt the standards for a variance were pretty close and all that. I like the effective period of a variance but I won't talk about that on the application but...

Mr. Ackermann: If I could just say, I think having heading like that that are friendly, like on this page three (3) there are heading that are sharp.

Mrs. Musante: Okay.

Mr. Ackermann: Separate from just the statement of the Code, I think makes it easier for folks to understand it; similarly, on the first and second page of the City of Fredericksburg application.

Mrs. Musante: Okay.

Mr. Ackermann: They have it at a series of questions and then answers. So it is not all just governmental mumbo jumbo.

Dr. Larson: I think the, what I see for the City of Fredericksburg, especially the first page, their questions how does a variance (inaudible) have a plain English explanation (inaudible).

Mrs. Musante: Okay.

***Stafford County Board of Zoning Appeals
May 24, 2011***

Dr. Larson: I understand that we may have to have our legal counsel or somebody from the County look it over once we've figured out what we are going to say to make sure it is consistent with the ordinance. It just reads much more easily than the ordinance (inaudible).

Mrs. Musante: Okay.

Mr. Ingalls: You know, Alexandria on page eight (8) where the applicant signs it has a longer paragraph about, you know, the undersigns hereby attests and goes on saying about the same thing. But I noticed it said "the undersign also hereby grants the City of Alexandria permission to post a placard notice as required by ... on the property, which is subject to this application".

Mrs. Musante: We are not required to post for BZA, only for the Planning Commission, right?

Ms. Medina: And Board of Supervisors.

Mrs. Musante: And Board of Supervisors.

Mr. Ingalls: So you don't post placards?

Mrs. Musante: We do not.

Mr. Ingalls: Do we need permission to be able to go on the property?

Mr. Davis: I think that is in there.

Mr. Ingalls: We have... by them asking for it gives us permission.

Mrs. Stefl: My understanding, at least when Steven and I were in training, we were told just the application, it already stated that then their property is allowed. I mean, it is a nice courtesy to knock on the door, you know, if it is not a residence but we were told that it's our right to enter the property because they opened it up now for examination, in essence. But then you fall under the (inaudible)...

Mrs. Musante: That is what we have been told by County Attorney.

Mrs. Stefl: ...publicize that you are doing it and all that stuff.

Mr. Apicella: The application said that by submitting this application you...

Mr. Ingalls: You grant permission for the...

Mr. Apicella: You are giving permission just to be member...

Mr. Ingalls: County and or BZA member.

Mr. Apicella: ... or staff to visit the property.

Mr. Ingalls: That is what I...

***Stafford County Board of Zoning Appeals
May 24, 2011***

Mrs. Stefl: I thought that was in the application, I thought we had something to that that maybe the old, didn't we?

Mrs. Musante: I do to...

Mrs. Stefl: ... or something like that.

Mrs. Musante: First of all, we have been told by the County Attorney's office that once we receive an application like this, it does give us the permission to go on the property. It doesn't give you permission to walk around and be... you know, at least knock on the door like Mrs. Stefl said, knock on the door, let them know that you are there. I do tell the applicants that you may see somebody come by looking at your property within a certain amount of time and it is going to be your Board of Zoning Appeals member or it may be my inspector taking pictures and I've not had a problem. We do tell them that and we have also confirmed with the County Attorney's office, these are treated just like building permits are, once you've applied for the building permit, that opens your property up for basically the inspector or whoever to come on to your property; these are treated the same way.

Mr. Apicella: I hear you but I think it wouldn't hurt, I mean, maybe the husband submitted the application and you visit the house and the wife is there, she doesn't know that much about the it, you haven't talked to her and you have the application in front of you. You say I am here from the BZA, I am here to look at the property, when you submitted this application here is what it says, you said it was okay for me to come and look at it. It just... In the future if there is a potential problem...

Mrs. Musante: So you want it on the application?

Mr. Apicella: I think it wouldn't hurt.

Mrs. Stefl: I guess the more I think about it, it would be true because chances are that someone might call the cops and that deputy comes in response, you at least have something, hey, listen, this is why. Because a deputy may not understand the legalities, they are just looking at a trespasser.

Mr. Gibbons: We have a...

Mr. Ingalls: Sometimes the applicant may not be the person living there.

Mrs. Stefl: Or the applicant may not...

Mr. Gibbons: We've had a lot of good comments and good suggestions tonight so how do we proceed? Do we want to appoint a committee, two (2) or three (3) people to sit down and write something up and send it down to the County Attorney and see if it passed mustard?

Mr. Ingalls: I think the staff can take these comments and use them to develop two (2) or three (3) scenarios or something for us.

Mrs. Musante: What I had planned to do is after I receive... First of all, after I show these to Rachel, everything goes through her first, get your approval, then, I was going to get County Attorney's approval, final approval before I made these.

***Stafford County Board of Zoning Appeals
May 24, 2011***

Mr. Gibbons: Yeah, but you got a lot of input tonight that's not in conflict with what you got there but to enhance what you got. Larry has a good point, why don't you put two (2) or three (3) scenarios together, then we pass it out and we owe it to them to get back to them before the next meeting.

Mr. Ingalls: Email us what you have.

Mrs. Musante: It will not happen before the next meeting, I can tell you that, I'm sorry.

Mr. Gibbons: Why is that?

Mrs. Musante: First of all, my father is having surgery on Thursday.

Mr. Gibbons: You don't need to go any further.

Mrs. Musante: And I am going to be out for a little bit and we've got a holiday and we've got the two (2) new cases on top of everything else that is going on. So it is probably going to be July before I can get at least another draft to you.

Mr. Gibbons: Say July, August because we will probably be off on July and we will probably be back in August.

Mrs. Musante: I can definitely get them to you and we can correspond by email if you all don't have a problem with that. That way when we come back in August, we will have something.

Dr. Larson: I am perfectly fine with that.

Mrs. Musante: Okay.

Mr. Gibbons: Is that alright with you Doctor?

Mr. Ackermann: I am fine with that.

Mr. Gibbons: Okay.

Mr. Apicella: Can I just add one thing because I didn't have the application in front of me. The application is in front of me, you may have already said this, I really like part B of the Alexandria application where it walks both the applicant and fortunately us through each one of the questions and sub-questions and so I think generally we just ask the four (4) questions but this goes into greater detail, which I think would be particularly helpful, at least to me in trying to sort out each one of the specific criteria. I know it makes the application a little bit lengthier but in terms of my review, for me personally, it would be helpful.

Mrs. Musante: Are you talking about the points of a Variance?

Mr. Apicella: No, I am talking about page nine (9).

Mr. Ingalls: Starting on page nine (9).

Mr. Apicella: And it goes through page twelve (12). I actually like part C as well.

Stafford County Board of Zoning Appeals
May 24, 2011

Mrs. Musante: Okay, what I have done on our application, under the Variance justification section, number 1, how the strict application of the provisions of the Zoning Ordinance would produce an undue hardship and they are supposed to give us that. That to me looks pretty much the same as page nine (9).

Mr. Gibbons: I guess what you should do then when you are doing it, use different italics. Say okay, Alexandria says this and we say that as you go down through. Like when you do...

Mrs. Musante: So you want to give a couple of different examples instead of just saying hey, here is one.

Mr. Gibbons: Yes, blue might be in Alexandria and red is Fredericksburg or whatever it is to give an example as we go through.

Mrs. Musante: Okay.

Mr. Apicella: Yeah, again, we asked two (2) questions okay and if you look at Alexandria's, they asked multiple questions and again for me it is kind of like a successive layer, okay you told me this point, now tell me this point and tell me this point and how it relates to the previous point. It all just a logical flow of getting a response back from the applicant and walking them... part of it is helping them understand what it would take to get a variance. Ultimately, if they can't answer these questions they may decide that I am not there and I don't think I can get a variance.

Mrs. Musante: Okay.

Mr. Apicella: I think it would be useful to them and I think it would be useful to us.

Mr. Ingalls: Actually, I think it is good to try to combine and like the Chairman says, maybe here is one section and we can use this or this and we would get comments, well I like this section or that section or I don't like either one but I would like to change one or the other.

Mrs. Musante: Okay.

Mr. Ingalls: It is not a...

Mr. Gibbons: No because we have worked so good together to change everything so far to really streamline... we respect each other and we've done good work. So I like to continue in the same vein. Okay?

Mrs. Musante: Okay.

Mr. Gibbons: Anything else. So we will have two (2) cases. What bothers me now is I want to make sure and I am not trying to repeat myself, but I want to make sure that that application coming out of Harry is right. I don't want to go through advertising and go through money, then we find out that we are not...

Mrs. Musante: Well I will touch base with you and let you know where we stand. I will be checking my email from home and Bryan knows to email me, you know, with what is going on so.

***Stafford County Board of Zoning Appeals
May 24, 2011***

Mr. Gibbons: And we will get it out to each Board member so I want everybody...

Mrs. Musante: Okay.

Mr. Gibbons: That is too serious of a project to get into some...

Mrs. Musante: It is and...

Mr. Gibbons: And it isn't like they have been working on it for two (2) or three (3) months, that is what bothers me.

Mrs. Musante: That is what I thought too. When Harry handed me the application, I said wow, it is awfully thin and there wasn't a whole lot to the application.

Mr. Gibbons: Okay.

Mrs. Musante: And then when I started checking the parcels and they were wrong.

Mr. Gibbons: Okay.

Mr. Ingalls: Well, is there other information missing that you would like to see?

Mrs. Musante: I am waiting to hear from Rishi because Rishi is the one who is going to be doing the staff report on it and he is reviewing a flood study right now. So he may have... normally, when we receive applications like that we receive maps and things, there was nothing attached to this. Now Rishi does have a map but...

Mr. Gibbons: But I am not into fairing... if we have to call Harry, we have to call Anthony and say we want this done the right way. This has been two or three months in the making, it's not like it came up in the last two (2) weeks.

Mrs. Musante: Well I met with Bryon probably almost three (3) months ago the first time.

Mr. Gibbons: Okay, alright, I want to make sure we do it right and I want each Board member to be kept up to date and we'll keep up to date as a collective body but I don't want...

Mrs. Musante: I will let you know as soon as I... If I find out that it is going down the wrong path, I will, and I can't get the information, I will let you know. I am not too sure how much Harry was actually involved in it. I think Bryon was doing the application process.

Mr. Gibbons: But the Director is the Director.

Mrs. Musante: Correct.

Mr. Gibbons: The County Administrator is the County Administrator and when you sign an application if is on behalf of the Board and I just don't want to get into a...

Mrs. Musante: Okay.

***Stafford County Board of Zoning Appeals
May 24, 2011***

Mr. Gibbons: We just don't need it after three (3) months.

Mrs. Musante: No.

Mr. Gibbons: Okay.

Mrs. Musante: Do we need to take a vote on the July meeting as to whether we are going to have a July meeting. Are we going to have a July meeting? I guess I am asking that.

Mr. Gibbons: Customarily we don't meet in July and then we meet in August. Does anybody have a problem with just announcing now that we won't have one?

Mr. Ackermann: I go either way, it doesn't matter to me.

Mr. Ingalls: If you tell me we have a meeting, I will be here and if you tell me I don't have a meeting, I won't be here.

Mr. Gibbons: Okay. You want to leave it that way so if we get an application we will meet if there is an application, correct?

Mr. Apicella: I personally like the idea of skipping the July meeting and moving the issue to August if possible.

Mr. Gibbons: Anybody have any...

Mr. Ackermann: That is fine with me too.

Mr. Gibbons: Anybody have a problem? Doctor?

Dr. Larson: I don't have a problem, I guess I would suggest waiting to see if there is an application and if it is time sensitive somehow (inaudible).

Mr. Gibbons: Okay, that's fair enough. Okay.

Mrs. Musante: So we will revisit at the June meeting.

Mr. Gibbons: Well, it's called held in advance. Anything else for the good of the organization? We will stand adjourned.

ADJOURNMENT

With no further business the meeting adjourned at 7:41 P.M.

Robert C. Gibbons, Chairman
Board of Zoning Appeals